

OCT 17 2006

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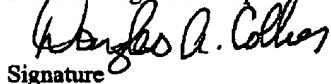
FROM: Douglas A. Collier

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RE: Response to Office Action for U.S. Patent Application No. 10/603,471 to Larry Gause, et al.

COMMENTS: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:

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|-----------------------------------------------|--|----------------------------------------------------------|--|
| TRANSMITTAL FORM | | U.S. Patent and Trademark Office (USPTO) Form 10/603,471 | |
| Application Number: 10/603,471 | | Filing Date: June 25, 2003 | |
| IPC Class. Inventor: Larry Gause, et al. | | AR Unit: 3733 | |
| Examiner Name: Auresha Ramana | | Attorney Name: Douglas A. Collier | |
| Total Number of Pages in this Transmittal: 17 | | Attorney Docket Number: 10/603,471-001 | |

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| ENCLOSURES (Check all that apply) | |
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> Appeal Brief <input type="checkbox"/> Answer/Declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Transmittal <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.63 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Claiming relation Papers <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Authorization, or Assignment <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CO, Number of CO(s) <input type="checkbox"/> Landscape Table on CO <input type="checkbox"/> Endorsement |
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| Print Name: KIRK DRIVEUR LLP | Signature: <i>Douglas A. Collier</i> |
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| Typed or printed name: Douglas A. Collier | Date: October 17, 2006 |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of
Larry Gause et al.
Application Serial No. 10/603,471
Filed June 25, 2003
SYSTEM FOR STABILIZING A PORTION
OF THE SPINE

Before the Examiner
Auresha Ramana.
Group Art Unit 3733
Ref. No.: MSDI-259/
PC757.00
October 17, 2006

RESPONSE TO FIRST OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action dated July 20, 2006, please enter and consider the following. No fees or extensions of time are believed due for consideration of this response. Please provide any extensions of time necessary and charge any fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

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| Date of Transmission: | Oct 17, 2006 |
| Name of Applicant: | Douglas A. Collier |
| Signature: | <i>Douglas A. Collier</i> |
| Date of Signature: | Oct 17, 2006 |

Response to Office Action
Application Serial No. 10/603,471
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and 59-62 were rejected. In this response, claims 39-58 and 63-80 have been cancelled without prejudice to pursuit in a divisional application. Claims 1, 12, 13, 20, 28, 29, 30, 36, 38, 39 and 61 have been amended, and claim 81-93 have been added. Reconsideration of the present application as amended and including claims 1-38, 59-62 and 81-93 in view of the remarks that follow is respectfully requested.

Claim 38 was objected to and it was indicated that it appears it should depend from claim 36 rather than claim 26. Claim 38 has been amended to depend from claim 36 and also to insert a period after the claim number. Withdrawal of the objection to claim 38 is respectfully requested.

Claims 1-18, 20-22, 28-33, and 59-61 were rejected under 35 USC §102(e) as being anticipated by U.S. Patent No. 6,793,658 to LeMuec et al. LeMuec et al. disclose a plate with window 627 defined in part by an upper end wall adjacent upper nose 620a. The upper end wall has a convex curvature along the window and across the longitudinal axis of the plate. Amended claim 1 recites "an elongate plate including a length extending along a longitudinal axis adapted to span a space between adjacent vertebrae, said plate including a first connection portion attachable to a first one of the adjacent vertebrae and a second connection portion attachable to a second one of the adjacent vertebrae, and an intermediate portion extending between said first and second connection portions, said intermediate portion including a visualization opening extending therethrough for visualizing the space when said plate is attached to the adjacent vertebrae, said visualization opening including at least one convexly curved side wall extending along the longitudinal axis and opposite end walls on opposite ends of said visualization opening extending across the longitudinal axis, each of said end walls including a concave shape extending across the longitudinal axis." Accordingly, claim 1 distinguishes LeMuec et al. and withdrawal of the rejection of claim 1 is respectfully requested.

Claims 2-18 depend from claim 1 and are allowable at least for the reasons claim 1 is allowable. Withdrawal of this basis of the rejection of these claims is respectfully requested.

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